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IN THE CIRCUIT COURT OF THE 4th
JUDICIAL CIRCUIT IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 16-2011-CA-002567-XXXX-MA

CV-D

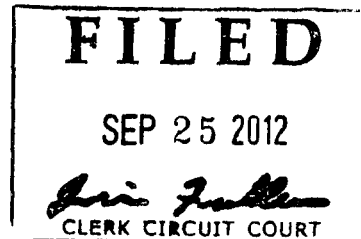
A.D. and S.T, individually and on behalf
of their adopted children, J.D. and W.D.,

Plaintiffs,

vs.

FAMILY SUPPORT SERVICES OF
NORTH FLORIDA, INC., a Florida
corporation, and BOYS' HOME
ASSOCIATION, INC., a Florida
corporation,

Defendants.



FIRST AMENDED COMPLAINT

Plaintiffs, A.D. and S.T. individually and on behalf of their adopted children, J.D. and W.D., by and through undersigned counsel, hereby sue the Defendants, FAMILY SUPPORT SERVICES OF NORTH FLORIDA, INC., a Florida corporation, and BOYS' HOME ASSOCIATION, INC., a Florida corporation, and state as follows:

JURISDICTION AND VENUE

1. This is a claim for negligence for actions which took place in Duval County, Florida and Nassau County, Florida.

2. This action involves damages in excess of Fifteen Thousand Dollars (\$15,000.00) exclusive of attorney's fees, interests or costs.

THE PARTIES

3. Plaintiffs, A.D, and S.T., are *sui juris* adults who adopted J.D. and W.D. as their

children.

4. Plaintiff, J.D., whose date of birth is November 12, 2002, is a minor child.

5. Plaintiff, W.D., whose date of birth is August 13, 2004, is a minor child.

6. J.D. and W.D., were legally dependent children pursuant to Chapter 39, Florida Statutes, and in the legal and physical custody of the Department of Children and Families (hereinafter "DCF").

7. On August 19, 2009, Plaintiffs, A.D. and S.T., legally adopted J.D. and W.D. pursuant to a Final Judgment of Adoption entered by the Circuit Court in and for the Fourth Judicial Circuit.

8. Due to J.D. and W.D.'s status as minor children, they are filing this action through their next friends and adoptive parents, A.D. and S.T.

9. Due to the nature of the allegations contained herein, the parties have filed this action using pseudonyms.

10. Defendant, FAMILY SUPPORT SERVICES OF NORTH FLORIDA, INC. (hereinafter "FSSNF"), is a not-for-profit corporation, organized and existing under the laws of the State of Florida, and operating its business in Duval County, Florida and Nassau County, Florida.

11. At all times relevant hereto, FSSNF was the lead agency for coordination and delivery of community-based foster care, adoption, and related services in Duval County, Florida and/or Nassau County, Florida pursuant to § 409.1671, Florida Statutes, and operated under a contract with DCF to provide such services to children in the custody of DCF, including J.D. and W.D.

12. Defendant, BOYS' HOME ASSOCIATION, INC. (hereinafter "BHA"), is a not-for-profit corporation, organized and existing under the laws of the State of Florida, and operating its

business in Duval County, Florida.

13. At all times relevant hereto, BHA was a licensed child-placing agency, authorized by DCF to conduct licensing studies of family foster homes and to certify to DCF that the home met its licensing requirements.

GENERAL ALLEGATIONS

14. On or about March 24, 2005, J.D., then two years of age, and W.D., then seven months of age, were removed from their biological mother in Nassau County, Florida, because of her inability to provide stable housing and care for the children.

15. At the time of removal, the children's case was managed by Family Matters of Nassau County (hereinafter "FMNC"), a department of Nassau County which was then acting as the lead agency which had contracted with DCF to provide community-based foster care and related services.

16. On March 24, 2005, FMNC placed the children in the licensed foster home of [REDACTED]

17. The [REDACTED] home was licensed by BHA in 2004, who knew or should have known that [REDACTED] had a criminal history of abuse of her biological children and that she lied about this fact during the application process, which would have disqualified her from initial licensure as a foster parent.

18. Despite receiving several abuse reports after licensing [REDACTED] BHA continued to license the Smith home for two (2) years.

19. The children were removed from the [REDACTED] home on October 6, 2006 as a result of verified abuse allegations.

20. FMNC then placed the children in the foster home of [REDACTED] (hereinafter

"Kathy").

21. Although FMNC did not disclose to Kathy that the children were removed from the [REDACTED] home due to serious abuse allegations, it became apparent to her that J.D. and W.D. had been severely traumatized as a result of their behaviors.

22. Specifically, Kathy reported that J.D. started using baby talk and would flinch at any quick movements, and that W.D. would have unprovoked screaming fits for up to thirty (30) minutes at a time, periodically wet his bed at night, and was frequently physically aggressive.

23. However, J.D., now nearly four years of age, and W.D., just over two years of age, did not receive any evaluations, treatment, or services for the abuse they suffered while under FMNC's care.

24. In or about September 2007, FSSNF became the lead agency for community-based foster care, adoption, and related services in Nassau County, and thus assumed responsibility for J.D.'s and W.D.'s care.

25. Upon information and belief, FSSNF received all information regarding the children's case history, including the abuse suffered in the Smith home and the children's serious behavioral needs, especially W.D.

26. Additionally, immediately upon assuming responsibility for the children's care, FSSNF received numerous reports directly from Kathy regarding W.D.'s aggression and tantrums, including that she felt he might need to be tested for delays and attention deficits, and repeatedly received respite care for him as a result of the level of care he required.

27. However, FSSNF failed to seek and/or obtain any evaluations, treatment, or services to address the children's trauma and related behavioral issues.

28. Instead, FSSNF actively sought a non-special needs adoptive placement for J.D. and W.D. without taking any steps to ensure their behaviors would not disrupt future placements.

29. Kathy expressed her desire to adopt the children as well as her serious concerns about the effect that any placement move would have on the children and W.D.'s behavior without proper supports.

30. Despite this, FSSNF placed J.D. and W.D. with another potential adoptive family (hereinafter "[REDACTED] family") out of state in Virginia in April 2008.

31. At that time, Kathy informed FSSNF that she still wanted to care for and adopt the children should the adoptive placement in Virginia fail.

32. Upon information and belief, FSSNF did not disclose any of the children's abuse history or their serious behavioral needs to the Taylor family prior to placement.

33. The [REDACTED] family did not want to adopt special needs children and were not prepared to deal with the children's behavioral needs.

34. As a result, the prospective adoptive placement with the [REDACTED] family failed after five (5) months.

35. Upon returning from Virginia in September 2008, FSSNF did not place J.D. and W.D. back in the [REDACTED] home for adoption.

36. Rather, the children went through two more foster home placements, one of which resulted in additional physical abuse, and where the children again displayed emotional and behavioral deterioration.

37. Despite this, FSSNF continuously failed to seek and/or obtain necessary evaluations, treatment, or services to address the children's serious needs.

38. Once again, [REDACTED] expressed her desire to adopt the children and made a formal application for adoption.

39. However, without regard to the children's prior emotional attachment with Kathy and her well established ability to address the children's special needs, FSSNF identified Plaintiffs, A.D. and S.T., as potential adoptive parents in Canada in December 2008.

40. Plaintiffs, A.D. and S.T., did not want to adopt special needs children and were not prepared to deal with the children's behavioral needs.

41. FSSNF failed to disclose any of the children's abuse history or their serious behavioral needs to Plaintiffs, A.D. and S.T., prior to placement or adoption.

42. On April 30, 2009, J.D. and W.D. were transported to the prospective adoptive home of A.D. and S.T., in Victoria, British Columbia.

43. On August 19, 2009, J.D. and W.D. were officially adopted by Plaintiffs, A.D. and S.T., through the Florida court system.

44. Since Plaintiffs, A.D. and S.T., adopted J.D. and W.D., the children have exhibited numerous behavioral issues and/or health and safety concerns including:

- a. W.D. has angry outbursts such as throwing books at the nanny and punching her in the face;
- b. W.D. has inappropriately touched J.D. and is constantly in need of guidance as to physical boundaries;
- c. W.D. has gender identity problems in that he did not know whether he was a boy or a girl;
- d. J.D. continues to have nightmares about monsters whom she reports are Ms. Smith;
- e. J.D. constantly expresses a desire to kill her adoptive mother and her brother and chop them up into pieces; and

f. J.D. defecates on her hands and smears it on her adoptive mother.

45. Both J.D. and W.D. suffer with serious psychological and psychiatric needs requiring a lifetime of extensive treatment.

BHA's Licensing of Smith Home

46. On October 21, 2004, A [REDACTED] submitted an application to BHA to become a licensed foster parent.

47. Although [REDACTED] did not specifically indicate that she was formerly known by her married name, [REDACTED] she did disclose on the application that she was previously married and provided her former husband's name as well as the name of one of her biological children.

48. During the home study process, N [REDACTED] further claimed that she was the victim of domestic violence in her marriage, and that the one biological child living with her was home schooled.

49. Despite having this information, BHA failed to conduct an appropriate background screening, including criminal and abuse records history, on [REDACTED]'s married name, the name of her former husband, and the name of all of her biological children.

50. Had BHA conducted an appropriate background screening, it would have learned that [REDACTED] had her biological children removed from her custody in 1991 as a result of verified allegations of abuse, which also resulted in criminal abuse charges.

51. BHA also would have discovered additional abuse allegations against [REDACTED] with regard to her biological children in 2001 and 2002, and that two of her biological children resided with their father as a result.

52. Upon information and belief, BHA failed to obtain written references from non-

relatives and failed to investigate the validity of [REDACTED]'s claim that she home-schooled her biological child.

53. As a result of BHA's failure to screen [REDACTED] for this otherwise disqualifying information, BHA licensed [REDACTED] to foster up to four (4) children on December 6, 2004.

54. On or about April 6, 2005, just four (4) months after initial licensure and less than two (2) weeks after J.D. and W.D. were placed in the [REDACTED] home, two other foster children were removed from the [REDACTED] home as a result of abuse allegations and placed in another foster home.

55. On or about April 16, 2005, the new foster mother reported to BHA that the children's clothes were odorous, and that she observed one of the children take all of the clothes off her dolls and beat them. When the new foster mother asked why the child was beating the babies, she disclosed that it was what [REDACTED] had done to them.

56. Despite these serious allegations and findings of some indicators in the abuse investigation, BHA continued to license the [REDACTED] home.

57. In October 2005 [REDACTED] applied for re-licensure of her foster home.

58. BHA again failed to conduct an appropriate background screening.

59. However, unlike the initial licensure, on October 26, 2005, BHA did receive results on the Central Abuse Hotline Record Search that indicated the prior abuse reports involving Ms. [REDACTED] biological children.

60. Therefore, no later October 26, 2005, BHA had either actual or constructive knowledge that [REDACTED] had a criminal abuse history and had lied about these facts during her initial application for licensure in 2004, yet ignored this disqualifying information.

61. Additionally, BHA's licensing workers failed to conduct the statutorily required

review of abuse reports for the prior licensing year.

62. During the re-licensure process, [REDACTED] gave a false account as to the reason two children were removed from her home in April 2005, claiming it was the result of issues with the biological mother rather than as a result of an abuse report.

63. As a result of BHA's licensing workers' failure to review the prior year's abuse reports or even BHA's own licensing file, BHA's employees failed to uncover that [REDACTED] lied about the April 2005 abuse report and failed to take that report and the subsequent allegations into consideration during the re-licensing process.

64. BHA either knew or should have known of [REDACTED] criminal abuse history and that [REDACTED] lied during the re-licensure process, both of which should have disqualified her from obtaining a license to foster children.

65. However, on December 6, 2005, BHA relicensed the [REDACTED] home to care for two (2) foster children.

66. On or about January 11, 2006, BHA increased the licensing capacity of the [REDACTED] home to four (4) children.

67. In April 2006, there was another abuse report, alleging physical abuse of a foster child in the [REDACTED] home.

68. On or about May 20, 2006, with the [REDACTED] home already at licensed capacity of four (4) children, BHA placed an additional two (2) foster children in the [REDACTED] home, bringing the total number of children in the home to seven (7), including [REDACTED] biological child.

69. Upon information and belief and contrary to statutory and DCF operating procedure requirements, BHA failed to conduct the required assessments or receive appropriate approval for

placement of six (6) foster children in the [REDACTED] home.

70. In June 2006, there was another abuse report against [REDACTED] this time alleging physical abuse of [REDACTED] biological child.

71. Because the June 2006 abuse investigation involved [REDACTED] biological child, the investigator's search of prior abuse reports revealed [REDACTED] abuse of her biological children from 1991, as well as the additional reports of 2001 and 2002.

72. Upon information and belief, DCF provided these abuse investigation reports to BHA.

73. However, BHA took no action and continued to license the [REDACTED] foster home.

74. On October 6, 2006, there was another abuse report against [REDACTED] alleging physical abuse of a foster child.

75. During the course of the investigation, all six (6) of the foster children then in the [REDACTED] home, including Plaintiffs, disclosed severe physical and emotional abuse and neglect.

76. The investigation verified the abuse allegations, and as a result, all of the children, including J.D. and W.D., were removed from the [REDACTED] home.

77. Additionally, on or about October 17, 2006, BHA revoked [REDACTED]'s foster care license as a result of the verified abuse.

78. In or about November 2006, [REDACTED] was arrested and charged in a two count information with criminal child abuse and contributing to the delinquency of a minor. In January, 2007, [REDACTED] negotiated a plea to the charge of contributing to the delinquency of a minor for which she was adjudicated.

FSSNF's Failure to Protect J.D. and W.D.

79. At the time that FSSNF assumed responsibility for J.D. and W.D.'s care in or about

September 2007, the children had been in the foster home of [REDACTED] since October 2006.

80. Upon information and belief, FSSNF received all information regarding the children's case history, including the abuse suffered in the [REDACTED] home and the children's serious behavioral needs, especially W.D.

81. At FSSNF's first home visit on September 17, 2007, Kathy informed Defendant that W.D. periodically wet himself during the night, that he was much to care for, and that she was in need of respite.

82. Kathy again needed respite care for W.D. due to his behavior on November 14, 2007, and also informed FSSNF that W.D. had recently started spitting at people and that she felt he might need to be tested for medications to calm him down.

83. The FSSNF case manager made a referral for services to the Early Steps Program, but upon information and belief, no services were ever obtained.

84. In January 2008, Kathy again expressed her serious concerns regarding W.D.'s behavior, but no services were sought or obtained.

85. In March 2008, an FSSNF case worker directly observed W.D. acting out during her home visit, but no services were sought or obtained.

86. On or about April 10, 2008, J.D. and W.D. were transported to the prospective adoptive home of the T [REDACTED] in Virginia.

87. The T [REDACTED] also reported W.D.'s tantrums, screaming, and aggressive behaviors, as well as J.D.'s conflicts with their biological daughter and slowness to attach.

88. On August 13, 2008, the T [REDACTED] informed FSSNF's case manager that they did not want to proceed with adoption as a result of the children's needs.

89. FSSNF knew that J.D. and W.D. would need therapy and counseling to deal with this third placement disruption and failed adoption, because the case manager requested it; however, no such therapy was obtained or provided.

90. Instead, the children were told that they were returning to Florida for a visit only and upon their arrival on September 15, 2008, the prospective adoptive parents said goodbye and never returned.

91. FSSNF then placed J.D. and W.D. in their fourth placement, the [REDACTED] home in Callahan, Florida.

92. Once again, FSSNF was informed that W.D.'s behavior was erratic and aggressive, but Defendant failed to obtain necessary services.

93. Further, FSSNF failed to conduct any of the statutorily required home visits for the three (3) months the children were in the [REDACTED] foster home.

94. On or about December 5, 2008, an abuse investigation revealed that J.D. and W.D. were being physically abused in the [REDACTED] home.

95. On December 9, 2008, FSSNF removed the children, who were now ages four and six, and placed them in a fifth foster home in Callahan, Florida.

96. On December 18, 2008, the children's pediatrician informed FSSNF's case manager that W.D. was very disruptive during his visit and recommended that FSSNF follow through with the referral to the Child Find Program.

97. The very next day, the children's new foster mother informed FSSNF that W.D. would hit and slap other children, including his sister J.D., when he was upset, and that J.D.'s hearing had diminished in one of her ears.

98. On January 13, 2009, FSSNF's case manager observed W.D. jump on J.D. and hit her. The foster mother reported that W.D. acted out aggressively against other children unprovoked, including biting, kicking, punching, and hitting and that he seemed to have a speech problem.

99. The children's behavioral and health issues continued throughout this placement right up until the day the children were placed with Plaintiffs, A.D. and S.T., on April 30, 2009.

FSSNF's Failure to Disclose the Children's Trauma and Serious Needs

100. The adoption home study of Plaintiffs, A.D. and S.T., was clear that they were not equipped to take on kids with anything more than mild emotional issues.

101. Reports provided by FSSNF to A.D. and S.T. gave no indications of the children's past trauma or W.D.'s serious anger, aggression, or speech problems.

102. Prior to adoption, FSSNF knew and failed to disclose the following information:

- a. J.D. and W.D. were removed from the [REDACTED] home as a result of verified allegations of abuse, which resulted in criminal charges;
- b. J.D. and W.D. displayed clear signs of abuse and trauma while in the home of [REDACTED];
- c. W.D. had the tendency to be aggressive even when unprovoked;
- d. W.D. had the tendency to have temper tantrums;
- e. W.D. had a history of periodically wetting his bed at night, behavior that frequently reemerged after disrupted placements;
- f. W.D.'s behavior was described as erratic;
- g. W.D. required speech and language therapy;
- h. W.D. needed constant redirection;
- i. W.D. had difficulty making eye contact;
- j. J.D. frequently reverted to baby talk after disrupted placements;

- k. J.D. was being tested for possible hearing deficiencies; and
- l. J.D. and W.D. had experienced multiple placements and a failed adoption because of the inability of foster parents to cope with their special needs.

103. At the match staffing in which FSSNF ultimately chose A.D. and S.T. as appropriate adoptive parents, FSSNF acknowledged that W.D.'s previous foster mother "complained incessantly" about his "screaming and belligerent behavior."

104. Less than two weeks prior to completion of the Child Study, FSSNF's case manager was informed by the children's foster parent that W.D. was aggressive at school and didn't make eye contact.

105. However, the Child Study, prepared on December 18, 2008, omits this information entirely and falsely states that the children were moved from the [REDACTED] home in October 2006 simply because the home was closed.

106. Just one day after drafting the Child Study, the children's foster parent informed FSSNF that W.D. would hit and slap the other children in the foster home and that J.D. needed to have a follow up for hearing loss in one ear.

107. FSSNF failed to update the Child Study to include this information.

108. On January 13, 2009, FSSNF's case manager directly observed W.D. jump on J.D. and hit her, and the foster mother expressed serious concern regarding W.D.'s speech problems and unprovoked aggression with other children at home and at school, which included biting, hitting, kicking, and punching.

109. On February 18, 2009, both FSSNF's case manager and supervisor signed the record of full disclosure, which failed to provide any of the observations made on January 13th to Plaintiffs.

110. On March 5, 2009, J.D. and W.D. had pre-adoptive psychological evaluations and the reports were sent to FSSNF on March 10, 2009.

111. In addition to clinical observations at the time of the evaluation, the psychologist relied upon the record provided by FSSNF and information provided by FSSNF's case manager, who brought the children to the evaluation.

112. FSSNF's case manager failed to provide critical information to the psychologist, such that her report erroneously indicates that the foster parent reported no problems other than W.D.'s activity level and that the children were not aggressive, were well-mannered, and liked to be helpful in complete contradiction to the well-established record.

113. The psychologist noted that W.D. had multiple problems with speech and language that needed to be addressed very quickly, recommending the immediate attention of a speech and language pathologist.

114. On March 20, 2009, FSSNF forwarded the evaluations to A.D. and S.T., claiming that W.D. had been taken to a speech pathologist, who saw no issues with his articulation and did not recommend therapy.

115. Upon information and belief, FSSNF never took W.D. for a speech evaluation.

116. FSSNF pushed through an adoption to parents who were not prepared to raise children with such extensive special needs, including treatment to address extreme emotional, physical, psychological, and sexual abuse.

117. Seven (7) months post-adoption, an evaluation of W.D. on March 8, 2010 revealed that W.D.:

- a. Frequently tried to touch family members inappropriately;

- b. Tried to grab other people's genitalia and women's breasts frequently when he was upset;
- c. Tried to touch the family dog's genitalia;
- d. Exposed himself to his sister;
- e. Was confused about his gender identity;
- f. Was disruptive at school; and,
- g. "WD is a bright and engaged boy who appears to have experienced a significant degree of trauma in his young life. This trauma has not been limited to the physical and sexual abuse he has allegedly experienced, but also to his multiple foster placements and lack of consistent and caring environment prior to coming to live with [A.D. and S.T.]."

118. J.D. and W.D. require around-the-clock supervision and extensive services to ensure their health and safety due to the following:

- a. The children are unable to attend a regular daycare and must have a specially trained nanny;
- b. The children are unable to remain in a school setting for an entire day, and must instead be home schooled for the other half of each day;
- c. W.D. is in need of therapy including music therapy, occupational therapy, and related forms of intervention;
- d. W.D. requires a smaller school setting and will need one-on-one support in the classroom;
- e. J.D. suffers from severe pain when using the bathroom; and
- f. J.D.'s psychiatric condition has required hospitalization.

119. Despite requests for financial assistance to address the extensive needs of these children, FSSNF has failed to ensure that Plaintiffs receive adequate financial assistance to stabilize this adoptive home.

120. Instead, A.D. and S.T. have been forced to take extensive time off from work, and S.T. has been forced to take a demotion so that she can adequately care for the children.

121. The family is unable to have a stable nanny to assist with the children because of their extreme behavioral difficulties and extensive psychiatric needs.

122. A.D. and S.T. are also in need of counseling to help cope with the enormous strain this adoption has brought on them and their family.

COUNT I

NEGLIGENCE OF BOYS' HOME ASSOCIATION, INC.

123. Plaintiffs hereby reaver and reallege paragraphs 1 through 78 as if fully set forth herein.

124. At all times material hereto, BHA had a duty to:

- a. Conduct a licensing study of [REDACTED] and certify to DCF that the potential foster home met all DCF licensing requirements in accordance with § 409.175, Florida Statutes;
- b. Conduct an appropriate screening by assessing [REDACTED] background, including, but not limited to, employment history check, check of references, local criminal records check through local law enforcement agencies, fingerprinting, statewide criminal records check through the Department of Law Enforcement, federal criminal records through the Federal Bureau of Investigation and abuse registry clearance in accordance with Rule 65C-13.009 of the Florida Administrative Code;
- c. Request Abuse Registry clearances for [REDACTED] by submitting her name, race, sex, date of birth, social security number, name of her prior spouse, and names of all of her biological children in accordance with Rule 65C-13.009 of the Florida Administrative Code;
- d. Conduct an employment history check and check of references, including at least three written references from non-relatives, with at least one school reference for children of school age in accordance with Rule 65C-13.009 of the Florida Administrative Code;

- e. Conduct an annual re-licensing study in accordance with the requirements of § 409.175, Florida Statutes and Chapter 65C of the Florida Administrative Code;
- f. To seek and obtain a waiver signed by the District or Regional Administrator prior to placement of additional foster children if the total number of children in the home was to exceed five (5), including the family's own children in accordance with § 409.175, Florida Statutes and DCF Operating Procedure 175-64;
- g. Deny, suspend, and/or revoke a foster home license upon discovery that the applicant lied or otherwise provided inaccurate or false information during the application process in accordance with § 409.175, Florida Statutes; and
- h. Deny, suspend, and/or revoke a foster home license based upon an intentional or negligent act materially affecting the health or safety of children in the home in accordance with § 409.175, Florida Statutes.

125. At all times material hereto, BHA breached the above stated duties.

126. As a direct and proximate result of BHA's negligence, J.D. and W.D. have sustained damages, including but not limited to bodily injury and resulting pain and suffering, mental anguish, loss of capacity for the enjoyment of life, and expenses of therapeutic and psychiatric treatment. The losses are permanent and will continue in the future.

WHEREFORE, Plaintiffs demand judgment for damages against the Defendant, BOYS' HOME ASSOCIATION, INC., for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT II

NEGLIGENCE OF FAMILY SUPPORT SERVICES OF NORTH FLORIDA, INC.

127. Plaintiffs hereby reaver and reallege paragraphs 1 through 45 and 79 through 122 as if fully set forth herein.

128. At all times material hereto, FSSNF had a duty to provide J.D. and W.D. with:

- a. A reasonable and safe placement;
- b. Appropriate monitoring and supervision;
- c. Protection from harm;
- d. Reasonable and adequate care and services, including but not limited to psychiatric and psychological care;
- e. Reasonable and safe continuity of care, therapy, and case monitoring;
- f. Services in compliance with the provisions of the Florida Statutes and the Florida Administrative Code, including, but not limited to: Sections 63.039, 63.085, and 63.125, Florida Statutes, and Rules 65C-13.015, 65C-15.028, 65C-15.029, 65C-15.031, 65C-16.002, 65C-16.009, 65C-16.010, and 65C-16.013, Florida Administrative Code; and
- g. All other protections provided by Florida law to children.

129. At all times material hereto, BHA breached the above stated duties.

130. As a direct and proximate result of FSSNF's negligence, J.D. and W.D. have sustained damages, including but not limited to bodily injury and resulting pain and suffering, mental anguish, loss of capacity for the enjoyment of life, expenses of therapeutic and psychiatric treatment, aggravation of previously existing condition, and unnecessary, inappropriate delays in treating pre-existing conditions, thereby compounding the situation in depriving J.D. and W.D.'s need of therapy and ongoing support services. The losses are permanent and will continue in the future.

131. Furthermore, as a direct and proximate result of FSSNF's negligence, the adoptive parents, A.D. and S.T., have incurred extraordinary expenses and provided care and services to J.D. and W.D., all of which are compensable.

WHEREFORE, Plaintiffs demand judgment for damages against the Defendant, FAMILY

SUPPORT SERVICES OF NORTH FLORIDA, INC. for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT III

WRONGFUL ADOPTION BASED ON NEGLIGENT MISREPRESENTATIONS AND CONCEALMENT BY FAMILY SUPPORT SERVICES OF NORTH FLORIDA

132. Plaintiffs hereby reaver and reallege paragraphs 1 through 45 and 79 through 122 as if fully set forth herein.

133. At all times material hereto, FSSNF had a duty to fully and completely disclose and fully investigate the history of the children to ensure disclosure of all information and records it had concerning J.D. and W.D., including psychosocial history, behavioral status and predictors, psychiatric and mental health history, and to comply with all the provisions of the Florida Statutes and the Florida Administrative Code, including, but not limited to: §§ 63.039, 63.085, and 63.125, Florida Statutes, and Rules 65C-15.028, 65C-15.029, 65C-15.031, 65C-16.002, 65C-16.009, 65C-16.013 of the Florida Administrative Code, so that the suitability for adoption could be reasonably considered on a fully informed basis by the adoptive parents, A.D. and S.T.

134. Instead, during the pre-adoption period, FSSNF failed to fully investigate, misrepresented, and/or deliberately concealed the material facts regarding J.D.'s and W.D.'s history of trauma and serious behavioral needs thereby breaching the above stated duties.

135. FSSNF knew or should have known of said misrepresentations and/or concealments.

136. In making misrepresentations and/or concealing information regarding the suitability of J.D. and W.D. for adoption, FSSNF knew or should have known that the adoptive parents, A.D. and S.T., would rely on said misrepresentations and the lack of complete information in making their

decision to adopt J.D. and W.D.

137. A.D. and S.T. relied on said information and adopted the children in August 2009.

138. Plaintiffs, A.D. and S.T., have sustained damages, including but not limited to mental anguish, loss of capacity for the enjoyment of life, expenses for the children's therapeutic and psychiatric treatment, expenses for specialized one-on-one care in school, and expenses for a specially trained nanny. Losses are permanent and continuing and the Plaintiffs will continue to suffer the losses in the future.

WHEREFORE, Plaintiffs demand judgment for damages against the Defendant, FAMILY SUPPORT SERVICES OF NORTH FLORIDA, INC. for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of all issues so triable in this case.

DATED this 21 day of September, 2012.

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